

In re ) Fair Hearing No. 10,544  
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Appeal of )

The petitioner appeals the decision by the Department of Social Welfare counting as income for food stamp purposes money deposited by the petitioner in a P.A.S.S. account. The issue is whether the Department's decision is in accord with federal statutes governing the food stamp program.

1. The petitioner lives with her husband who is legally blind and their small daughter. The family was receiving \$29.00 per month in food stamps based on \$942.00 in Social Security Disability (SSDI) benefits, the family's sole source of income, which was allocated as \$628.00 to her husband and \$157.00 each to the petitioner and her daughter as dependents.

2. On the advice of the Vermont Division for the Blind, the petitioner's husband investigated the Social Security's Administration P.A.S.S. (Plan for Achieving Self-Support) program and eventually developed a self-support program for himself which was approved for funding.

3. Under the petitioner's husband's agreement, he deposits \$600.00 per month into the P.A.S.S. account from his own Social Security Disability (SSDI) check (\$628.00)

which must be used exclusively for development of his truck farm business. He may not use any of that money for his personal expenses. The Social Security Administration then supplements the petitioner's remaining Social Security Disability (SSDI) check of \$28.00 with a \$463.99

Supplemental Security Income (SSI) check.<sup>1</sup> The petitioner and their daughter continue to receive their supplemental checks of \$157.00 each.

4. On May 3, 1991, the petitioner made a timely report of the family's new income to the Department of Social Welfare, reporting the new reduced SSDI figure of \$28.00, the SSI figure of \$463.99, and the two SSDI Supplemental checks of \$157.00 each. The worker handling the case called Social Security to verify the new amounts and discovered that the petitioner was actually receiving an additional \$592.00 in SSDI which went into the P.A.S.S. account.<sup>2</sup>

5. Because it was the worker's understanding that income put aside in a P.A.S.S. account is still countable unearned income in determining food stamp eligibility, she used the entire amount of all the checks (\$1,397.00) to calculate the family's eligibility. It was determined, based on that amount, that the family was \$253.99 over income for the program. On May 13, 1991, the petitioner was notified that her food stamp grant would be closed as of May 31, 1991.

6. The petitioner appealed that decision because she believes that the money put into the P.A.S.S. account should

not be used to calculate the family's food stamp eligibility because that income is not available to meet the family's needs. She argues that the family's income is now actually \$805.00 (\$463.99 from SSI and \$28.00, \$157.00, and \$157.00 from SSDI) which actually represents about a \$137.00 reduction in the family's available income. As a result, she believes her food stamps should have been increased rather than decreased to zero.

ORDER

The Department's decision is reversed and the matter remanded for recalculation of the petitioner's food stamp benefits without the P.A.S.S. amount.

REASONS

The Department agrees that the facts and legal issues in this matter are indistinguishable from those in Fair Hearing No. 8989. The rationale for the petitioner's P.A.S.S. income being excluded from the definition of unearned income is set forth in that decision. For the same reasons expressed by the Board in that case, the Department's decision herein is reversed.

FOOTNOTES

<sup>1</sup>Since the appeal was filed, the amounts changed slightly to \$36.00 from SSI and \$455.99 from SSDI, but the total of those two payments continue to be \$491.00.

<sup>2</sup>No explanation for the \$8.00 discrepancy between the change form and the verification report was offered. It is not an issue in this matter.